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JUN 6 2003

In re Application of	:	
Frederic Zenhausern	:	DECISION ON PETITION
Application No.: 09/407,581	:	TO WITHDRAW THE
Filing Date: September 28, 1999	:	HOLDING OF ABANDONMENT
Attorney Docket No.: 4467-103US	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed via facsimile transmission on May 27, 2003. A date-stamped return postcard receipt indicates that the original of this petition was filed at the USPTO on March 17, 2003 but the original is not in the application file.

The petition is DENIED.

A non-final Office action was mailed March 27, 2002, setting a three month shortened statutory period for filing a response. On October 7, 2002, applicant filed: 1) an amendment; 2) a request for a three-month extension of time; and 3) a form PTO-1449. On February 11, 2003, a Notice of Abandonment was mailed indicating that the reply of October 7, 2002 was not timely since the period for reply (including the 3-month extension of time) had expired on September 27, 2002.

Petitioner asserts that the reply of October 7, 2002 was timely in that it was deposited with the U.S. Postal Service on September 27, 2002 in accordance with 37 C.F.R. § 1.8. As evidence, the petitioner included a copy of a Certificate of Mailing (on a separate sheet) and a copy of the date-stamped return postcard receipt from the USPTO.

The original Certificate of Mailing is not in the application file. The evidence submitted by the petitioner is not sufficient to satisfy the conditions set forth in MPEP § 512 for establishing that the original Certificate of Mailing was received by the USPTO. The provisions of MPEP § 512 provide in part:

(B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well

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as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP § 503 relative to the use of postcards as receipts.

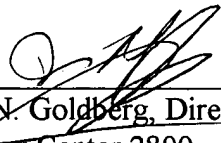
In the instant case, the copy of the Certificate of Mailing provided by petitioner does not include the application number and filing date of the application; and the copy of the postcard receipt does not specifically identify the missing original Certificate of Mailing. In addition, there appears to be sufficient space on at least the amendment to have made the certification on the same paper.

For the above reasons, the petition is **denied**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Any inquiries concerning this decision should be directed to Edward Westin at (703) 308-4823.

The application file is being returned to the Files Repository.

  
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